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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KURVIR SINGH,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-72870

Agency No. A79-806-264

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted October 11, 2005^{**}

Before: T.G. NELSON, WARDLAW, and TALLMAN, Circuit Judges.

Kurvir Singh is a native and citizen of India. Singh petitions for review of the Board of Immigration Appeals' ("BIA") decision, which summarily affirmed the Immigration Judge's ("IJ") order denying his application for asylum,

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

withholding of removal and relief under the Convention Against Torture (“CAT”).

We have jurisdiction under 8 U.S.C. § 1252.

Where, as here, the BIA affirms without an opinion, we review the IJ’s decision directly. *See Falcon Carriche v. Ashcroft*, 350 F.3d 845, 849 (9th Cir. 2003). We review for substantial evidence an adverse credibility determination. *Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001). We grant the petition and remand.

Substantial evidence does not support the IJ’s adverse credibility determination. *See Bandari v. INS*, 227 F.3d 1160, 1165-66 (9th Cir. 2000). The IJ’s adverse credibility findings were based upon impermissible speculation, *see id.* at 1166-67, and minor inconsistencies that do not go to the heart of Singh’s claim, *see Chebchoub.* at 1043. Also, the IJ’s demeanor finding that Singh was “very quiet” and had “little or no fervor” and thus would not give Indian police a reason to believe that he was involved with terrorists is not relevant to Singh’s claim.

Therefore, we grant the petition and remand for further proceedings to determine whether, accepting Singh’s testimony as credible, he is eligible for

asylum, withholding of removal and CAT relief. *See INS v. Ventura*, 537 U.S. 12, 16 (2002) (per curiam).

PETITION FOR REVIEW GRANTED AND REMANDED.